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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10

11 UNITED STATES OF AMERICA,)
12)
13 Plaintiff(s),) No. C 07-6353 BZ
14 v.)
15)
16 \$75,511 IN UNITED STATES) **ORDER SCHEDULING**
CURRENCY,) **COURT TRIAL AND**
17) **PRETRIAL MATTERS**
18 Defendant(s).)
19 _____)
20)

21 Following the Case Management Conference, **IT IS HEREBY**
22 **ORDERED** that the Case Management Statement is adopted, except
23 as expressly modified by this Order. It is further **ORDERED**
24 that:

25 1. DATES

26 Trial Date: **Monday, 6/15/2009, 2 days**

27 Pretrial Conference: **Tuesday, 5/26/2009, 4:00 p.m.**

28 Last Day to Hear Dispositive Motions: **Wednesday, 3/25/2009**

29 Last Day for Expert Discovery: **Friday, 2/13/2009**

30 Last Day for Rebuttal Expert Disclosure: **Friday, 2/6/2009**

31 Last Day for Expert Disclosure: **Friday, 1/30/2009**

32 Close of Non-expert Discovery: **Friday, 1/23/2009**

1 2. DISCLOSURE AND DISCOVERY

2 The parties are reminded that a failure to voluntarily
3 disclose information pursuant to Federal Rule of Civil
4 Procedure 26(a) or to supplement disclosures or discovery
5 responses pursuant to Rule 26(e) may result in exclusionary
6 sanctions. Thirty days prior to the close of non-expert
7 discovery, lead counsel for each party shall serve and file a
8 certification that all supplementation has been completed.

9 In the event a discovery dispute arises, **lead counsel** for
10 each party shall meet in person or, if counsel are outside the
11 Bay Area, by telephone and make a good faith effort to resolve
12 their dispute. Exchanging letters or telephone messages about
13 the dispute is insufficient. The Court does not read
14 subsequent positioning letters; parties shall instead make a
15 contemporaneous record of their meeting using a tape recorder
16 or a court reporter.

17 In the event they cannot resolve their dispute, the
18 parties must participate in a telephone conference with the
19 Court **before** filing any discovery motions or other papers.
20 The party seeking discovery shall request a conference in a
21 letter filed electronically not exceeding two pages (with no
22 attachments) which briefly explains the nature of the action
23 and the issues in dispute. Other parties shall reply in
24 similar fashion within two days of receiving the letter
25 requesting the conference. The Court will contact the parties
26 to schedule the conference.

27 3. MOTIONS

28 Consult Civil Local Rules 7-1 through 7-5 and this

1 Court's standing orders regarding motion practice. Motions
2 for **summary judgment** shall be accompanied by a statement of
3 the material facts not in dispute supported by citations to
4 admissible evidence. The parties shall file a joint statement
5 of undisputed facts where possible. If the parties are unable
6 to reach complete agreement after meeting and conferring, they
7 shall file a joint statement of the undisputed facts about
8 which they do agree. Any party may then file a separate
9 statement of the additional facts that the party contends are
10 undisputed. A party who without substantial justification
11 contends that a fact is in dispute is subject to sanctions.

12 A Chambers copy of all briefs shall be e-mailed in
13 WordPerfect or Word format to the following address:
14 bzpo@cand.uscourts.gov.

15 4. SETTLEMENT

16 This case is referred to a Magistrate Judge to conduct a
17 settlement conference in February or March of 2009. Counsel
18 will be contacted by that judge's chambers with a date and
19 time for the conference.

20 5. PRETRIAL CONFERENCE

21 Not less than thirty days prior to the date of the
22 pretrial conference, the parties shall meet and take all steps
23 necessary to fulfill the requirements of this Order.

24 Not less than twenty-one days prior to the pretrial
25 conference, the parties shall: (1) serve and file a joint
26 pretrial statement, containing the information listed in
27 **Attachment 1**, and a proposed pretrial order; (2) serve and
28 file trial briefs, Daubert motions, proposed findings of fact

1 and conclusions of law, and statements designating excerpts
2 from discovery that will be offered at trial (specifying the
3 witness and page and line references); (3) exchange exhibits,
4 agree on and number a joint set of exhibits and number
5 separately those exhibits to which the parties cannot agree;
6 (4) deliver all marked trial exhibits directly to the
7 courtroom clerk, Ms. Voltz; (5) deliver one extra set of all
8 marked exhibits directly to Chambers; and (6) submit all
9 exhibits in three-ring binders. Each exhibit shall be marked
10 with an exhibit label as contained in **Attachment 2**. The
11 exhibits shall also be separated with correctly marked side
12 tabs so that they are easy to find.

13 No party shall be permitted to call any witness or offer
14 any exhibit in its case in chief that is not disclosed at
15 pretrial, without leave of Court and for good cause.

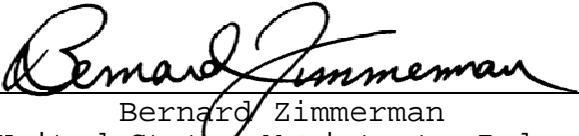
16 Lead trial counsel for each party shall meet and confer
17 in an effort to resolve all disputes regarding anticipated
18 testimony, witnesses and exhibits. Not less than eleven days
19 prior to the pretrial conference, the parties shall serve and
20 file any objections to witnesses or exhibits or to the
21 qualifications of an expert witness, and any oppositions to
22 Daubert motions. There shall be no replies.

23 A copy of all pretrial submissions, except for exhibits,
24 shall be e-mailed in WordPerfect or Word format to the
25 following address: bzpo@cand.uscourts.gov.

26 At the time of filing the original with the Clerk's
27 Office, two copies of all documents (but only one copy of the
28 exhibits) shall be delivered directly to Chambers (Room 15-

1 6688). Chambers' copies of all pretrial documents shall be
2 three-hole punched at the side, suitable for insertion into
3 standard, three-ring binders.

4 Dated: September 9, 2008

5 
6 Bernard Zimmerman
7 United States Magistrate Judge

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9 PRETRIAL MATTERS.wpd

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ATTACHMENT 1

The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

- (A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.
- (B) Relief Prayed. A detailed statement of each party's position on the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents or other evidentiary material to be presented concerning the amount of those damages.

(2) The Factual Basis of the Action.

- (A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.
- (B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be decided.
- (C) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.
- (D) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(3) Trial Preparation.

A brief description of the efforts the parties have

1 made to resolve disputes over anticipated testimony,
2 exhibits and witnesses.

3 (A) Witnesses to be Called. In
4 lieu of FRCP 26(a)(3)(A), a
5 list of all witnesses likely
6 to be called at trial, other
7 than solely for impeachment or
8 rebuttal, together with a
9 brief statement following each
10 name describing the substance
11 of the testimony to be given.

12 (B) Estimate of Trial Time. An
13 estimate of the number of
14 court days needed for the
15 presentation of each party's
16 case, indicating possible
17 reductions in time through
18 proposed stipulations, agreed
19 statements of facts, or
20 expedited means of presenting
21 testimony and exhibits.

22 (C) Use of Discovery Responses. In
23 lieu of FRCP 26(a)(3)(B), cite
24 possible presentation at trial
25 of evidence, other than solely
26 for impeachment or rebuttal,
27 through use of excerpts from
28 depositions, from
interrogatory answers, or from
responses to requests for
admission. Counsel shall
state any objections to use of
these materials and that
counsel has conferred
respecting such objections.

29 (D) Further Discovery or Motions.
30 A statement of all remaining
31 motions, including Daubert
32 motions.

33 (4) **Trial Alternatives and Options.**

34 (A) Settlement Discussion. A
35 statement summarizing the
36 status of settlement
37 negotiations and indicating
38 whether further negotiations
39 are likely to be productive.

40 (B) Amendments, Dismissals. A
41 statement of requested or

1 proposed amendments to
2 pleadings or dismissals of
3 parties, claims or defenses.

4 (C) Bifurcation, Separate Trial of
5 Issues. A statement of whether
bifurcation or a separate
trial of specific issues is
feasible and desired.

6 (5) **Miscellaneous.**

7 Any other subjects relevant to the trial of the action,
8 or material to its just, speedy and inexpensive
determination.

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ATTACHMENT 2

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2 **USDC**
3 Case No. CV07-06353 BZ
4 **JOINT** Exhibit No. _____

5 Date Entered _____

6 Signature _____
7 _____

8 **USDC**
9 Case No. CV07-06353 BZ
10 **JOINT** Exhibit No. _____

11 Date Entered _____

12 Signature _____
13 _____

14 **USDC**
15 Case No. CV07-06353 BZ
16 **PLNTF** Exhibit No. _____

17 Date Entered _____

18 Signature _____
19 _____

20 **USDC**
21 Case No. CV07-06353 BZ
22 **PLNTF** Exhibit No. _____

23 Date Entered _____

24 Signature _____
25 _____

26 **USDC**
27 Case No. CV07-06353 BZ
28 **DEFT** Exhibit No. _____

Date Entered _____

Signature _____

1 **USDC**
2 Case No. CV07-06353 BZ
3 **JOINT** Exhibit No. _____

4 Date Entered _____

5 Signature _____
6 _____

7 **USDC**
8 Case No. CV07-06353 BZ
9 **JOINT** Exhibit No. _____

10 Date Entered _____

11 Signature _____
12 _____

13 **USDC**
14 Case No. CV07-06353 BZ
15 **PLNTF** Exhibit No. _____

16 Date Entered _____

17 Signature _____
18 _____

19 **USDC**
20 Case No. CV07-06353 BZ
21 **PLNTF** Exhibit No. _____

22 Date Entered _____

23 Signature _____
24 _____

25 **USDC**
26 Case No. CV07-06353 BZ
27 **DEFT** Exhibit No. _____

28 Date Entered _____

Signature _____

USDC
Case No. CV07-06353 BZ
DEFT Exhibit No. _____

Date Entered _____

Signature _____
